

McDERMOTT WILL & EMERY LLP

Gary O. Ravert
340 Madison Avenue
New York, New York 10173-1922
Telephone: (212) 547-5400
Fax: (212) 547-5444

Nathan F. Coco
227 West Monroe Street
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700

Counsel for All Tool Sales, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

DPH HOLDINGS CORP., et al.,

Reorganized Debtors.

Chapter 11

Case No. 05-44481 (RDD)

(Jointly Administered)

RESPONSE BY ALL TOOL SALES, INC. TO REORGANIZED DEBTORS FORTY-THIRD OMNIBUS OBJECTION PURSUANT TO 11 U.S.C. § 503(B) AND FED. R. BANKR. P. 3007 TO (I) EXPUNGE CERTAIN ADMINISTRATIVE EXPENSE (A) SEVERANCE CLAIMS, (B) BOOKS AND RECORDS CLAIMS, (C) DUPLICATE CLAIMS, (D) EQUITY INTERESTS, (E) PREPETITION CLAIMS, (F) INSUFFICIENTLY DOCUMENTED CLAIMS, (G) PENSION, BENEFIT, AND OPEB CLAIMS, (H) WORKERS' COMPENSATION CLAIMS, AND (I) TRANSFERRED WORKERS' COMPENSATION CLAIMS, (II) MODIFY AND ALLOW CERTAIN ADMINISTRATIVE EXPENSE SEVERANCE CLAIMS, AND (III) ALLOW CERTAIN ADMINISTRATIVE EXPENSE SEVERANCE CLAIMS

All Tool Sales, Inc. (the "**Claimant**"), by and through its undersigned counsel, hereby submits this Response to the Reorganized Debtors' Forty-Third Omnibus Objection Pursuant to 11 U.S.C. § 503(B) and Fed. R. Bankr. P. 3007 to (I) Expunge Certain Administrative Expense (A) Severance Claims, (B) Books and Records Claims, (C) Duplicate Claims, (D) Equity Interests, (E) Prepetition Claims, (F) Insufficiently Documented Claims, (G) Pension, Benefit,

and OPEB Claims, (H) Workers' Compensation Claims, and (I) Transferred Workers' Compensation Claims, (II) Modify and Allow Certain Administrative Expense Severance Claims, and (III) Allow Certain Administrative Expense Severance Claims (the "**Omnibus Objection**"), and respectfully states as follows:

1. On October 8 and 14, 2005 (the "**Petition Date**"), Delphi Corporation and certain of its affiliates (collectively, the "**Debtors**") filed voluntary petitions for relief under Chapter 11 of Title 11, United States Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of New York.

2. On July 14, 2009, the Claimant timely filed an administrative expense claim (No. 19081, the "**Administrative Claim**") for goods the Claimant provided to the Debtors on a consignment basis pursuant to a certain "Tool Room Commodity Management Agreement" (the "**Agreement**"). The goods were held in a point-of-use receptacle at the Debtors' facilities. Upon information and belief, the Debtors consumed the Claimant's consigned inventory in the approximate amount of \$225,218.98 subsequent to the Petition Date.¹

3. On or about January 22, 2010, the Reorganized Debtors filed the Omnibus Objection which includes an objection to the Administrative Claim based solely upon the grounds that the claim is not reflected in the Reorganized Debtors' books and records. (*See* Omnibus Objection, ¶ 20).

4. The Administrative Claim is a valid administrative expense claim pursuant to Bankruptcy Code section 503(b)(1), and is properly supported by the Agreement and the accompanying consigned inventory statement attached to the Administrative Claim.

¹ The Claimant also holds a pre-petition claim against Delphi Automotive Systems LLC ("**DAS**") in the amount of \$34,715.63 for goods the Claimant sold to DAS prior to the Petition Date.

5. The Claimant is currently attempting to resolve the Omnibus Objection through negotiations with the Reorganized Debtors. However, in the event that the Claimant is unable to resolve the objection, the Claimant respectfully requests that the Court enter an order denying the Omnibus Objection and allowing the Administrative Claim.

6. Generally speaking, a party objecting to a timely and properly filed claim bears the burden of presenting “enough evidence to overcome the prima facie effect of the claim.” *McGee v. O'Connor (In re O'Connor)*, 153 F.3d 258, 261 (5th Cir. 1998); *In re Mid-Am. Waste Sys., Inc.*, 284 B.R. 53, 65 (Bankr. D. Del. 2002) (objecting party must present “sufficient evidence to overcome the presumed validity and amount of the claim”). The objector must “produce evidence tending to defeat the claim that is of a probative force equal to that of the creditor's proof of claim.” *See In re Simmons*, 765 F.2d 547, 552 (5th Cir. 1985).

7. By merely stating that the Administrative Claim is not reflected in the Reorganized Debtors' books and records, the Reorganized Debtors have not satisfied their burden of presenting “enough evidence” to overcome the presumptive validity of the timely and properly supported Administrative Claim. Accordingly, the Omnibus Objection should be denied as it applies to the Administrative Claim.

Dated: February 23, 2010

Respectfully submitted,

McDermott Will & Emery LLP

By: /s/ Gary O. Ravert

Gary O. Ravert
340 Madison Avenue
New York, New York 10173-1922
Telephone: (212) 547-5400
Fax: (212) 547-5444

Nathan F. Coco
227 West Monroe Street
Chicago, Illinois 60606
Telephone: (312) 372-2000
Facsimile: (312) 984-7700

Counsel for All Tool Sales, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing Response by All Tool Sales, Inc. to Reorganized Debtors' Forty-Third Omnibus Objection Pursuant to 11 U.S.C. § 503(B) and Fed. R. Bankr. P. 3007 to (I) Expunge Certain Administrative Expense (A) Severance Claims, (B) Books and Records Claims, (C) Duplicate Claims, (D) Equity Interests, (E) Prepetition Claims, (F) Insufficiently Documented Claims, (G) Pension, Benefit, and OPEB Claims, (H) Workers' Compensation Claims, and (I) Transferred Workers' Compensation Claims, (II) Modify and Allow Certain Administrative Expense Severance Claims, and (III) Allow Certain Administrative Expense Severance Claims was served via the Court's ECF system, on February 23, 2010, as well as to the parties listed below as indicated:

Via Facsimile

DPH Holdings Corp.
5725 Delphi Drive
(Attn: President)
Troy, Michigan 48098
T: 248.813.2000
F: 248.813.2673

Skadden Arps Slate Meagher & Flom LLP
155 North Wacker Drive
(Attn: John Wm. Butler, Jr.; John K. Lyons, Joseph N. Wharton)
Chicago, Illinois 60606
T: 312.407.0700
F: 312.407.0411

Via Electronic Correspondence

The Honorable Robert D. Drain
United States Bankruptcy Judge
The Hon. Charles L. Brieant Jr. Federal Building and Courthouse
300 Quarropas Street
Courtroom 118
White Plaines, New York 10601-4140
Email: rdd.chambers@nysb.uscourts.gov

/s/ Nathan F. Coco
Nathan F. Coco